

FILED

JANUARY 23, 2004

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the matter of:

GEORGE M. MIRDA, M.D.

ORDER OF
TEMPORARY SUSPENSION
OF LICENSURE

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") on January 16, 2004, upon the filing of an Order to Show Cause and Verified Complaint, pursuant to which respondent George Mirda, M.D., was ordered to appear before a Hearing Committee of the Board and then show cause why an order temporarily suspending his license to practice medicine and surgery in the State of New Jersey pending the completion of plenary proceedings in this matter should not be entered pursuant to the authority vested in this Board by N.J.S.A. 45:1-22. The application for the temporary suspension of Dr. Mirda's license was predicated upon allegations set forth in a five count complaint that Dr. Mirda had: 1) engaged in the unlicensed practice of medicine for a period of greater than four years (since his license expired on June 30, 1999 when he failed to renew the license following the 1997-1999 biennial licensure cycle), in violation of N.J.S.A. 45:9-6.1; 2) practiced medicine without holding required medical malpractice liability insurance (or posting a letter of credit with the Board) since 1996, in violation of N.J.S.A. 45:9-

CERTIFIED TRUE COPY

19.17 and N.J.A.C. 13:35-6.18; 3) prescribed controlled dangerous substances ("CDS") without holding a valid New Jersey CDS registration or a valid Drug Enforcement Agency ("DEA") registration, in violation of N.J.S.A. 8:65-1.2 and N.J.A.C. 24:21-10; 4) violated the "Duty to Cooperate" regulation (N.J.A.C. 13:45C-1.3) by declining to respond to questions posed to him concerning his general medical knowledge during a Board investigation of his practice; and 5) advertised himself as a physician without holding a medical license, in violation of N.J.A.C. 13:35-6.10(c) .

On January 21, 2004, a hearing was held on the application for the temporary suspension of respondent's license before a duly authorized Hearing Committee of the Board, Board members Bernard Robins, M.D., and Edwin Trayner, M.D. served on the Hearing Committee.¹ The Attorney General appeared at said hearing, by Deputy Attorney General Megan K. Matthews, and respondent appeared before the Committee *pro se*.

The Attorney General supported her application for the temporary suspension of respondent's license with the following

¹ The Hearing Committee was constituted to conduct the hearing in this matter, and to enter an Order, to be effective from the date of the hearing, adjudging the application for the temporary suspension of Dr. Mirza's license. This Order of the Hearing Committee shall be presented, along with a copy of the transcript of the hearing, documents in evidence and all moving papers to the Board for review at the Board's next scheduled meeting (on February 11, 2004, or such date to which said meeting may be rescheduled). The Board may then vote to adopt, reject or modify the Order of the Hearing Committee.

documentary evidence which was moved and accepted into evidence by the Committee:

- S-1 Transcript of testimony offered by George Mirda, M.D., when he appeared before an investigative Committee of the Board on January 7, 2004.
- S-2 Certification of William V. Roeder, Executive Director of the Board, dated January 15, 2004.
- S-3 Certification of Tonia Knoll, Acting Executive Director of the Division of Consumer Affairs' Drug Control Unit, dated January 20, 2004.
- S-4 Copy of listings for "physicians" appearing in 2003 Verizon Yellow Pages,

Respondent testified on his own behalf. While respondent does not dispute that he practiced without the required licenses, registration and insurance, he professed that he would never knowingly violate any law, and thus claimed and/or intimated that he was unaware that his medical license and CDS and DEA registrations had expired and unaware that he needed to hold medical malpractice liability insurance in order to practice in New Jersey.

We conclude that the evidence before us convincingly supports the allegations within Counts 1-4 of the filed complaint.²

² While the Attorney General seeks to support the allegations within Count 5 of the Complaint with a copy of a listing for "physicians" from the 2003 Verizon Yellow Pages, respondent has claimed that he did not in fact make any payment for the listing and thus denies that he has "advertised" his medical practice. We decline to make any findings pertinent to the allegations of Count 5 of the Complaint, but deem it unnecessary to do so based on our conclusion that the evidence submitted supporting the charges set forth in Counts 1-4 of the Verified Complaint is sufficient to support the threshold finding (i.e., that respondent's

We thus find, based on the un rebutted evidence presented in support of the application for the temporary suspension of respondent's license, that Dr. Mirda did not renew his medical license when that license lapsed on June 30, 1999. A license that is not renewed is automatically suspended, N.J.S.A. 45:9-6.1. By continuing to practice medicine with an expired license, Dr. Mirda has been engaged in the unlicensed practice of medicine since the date his license lapsed. Id., see also N.J.S.A. 45:1-7.1(c).

We further find that Dr. Mirda has practiced medicine without holding a valid New Jersey CDS registration since at least 1992, and without holding a valid DEA registration since his last valid registration was retired on August 30, 1996. By his own admission, Dr. Mirda has, during such times, prescribed CDS to his patients, see S-1 at 36,13 - 37,3; 38-24 - 39,19; it is thus clear that respondent has prescribed CDS without holding required state and federal registrations. See S-3, ¶5.

The evidence further demonstrates that Dr. Mirda has, again by his own admission,, practiced medicine since 1996, without holding medical malpractice liability insurance. See S-1 at 24,2 - 24,19. By doing so, he has necessarily exposed any patients he has since treated to the risks inherent in being provided care by an uninsured physician. He has further practiced, since 1997, in

continued practice of medicine would present a clear and imminent danger to public health, safety and welfare) necessary to impose temporary restraints.

violation of the requirements of N.J.S.A. 45:9-19.17, which mandates that all physicians practicing in the State be covered by medical malpractice liability insurance or have posted a letter of credit with the Board,³

Finally, review of the transcript of Dr. Mirda's testimony before an investigative committee of the Board on January 7, 2004 reveals that Dr. Mirda was evasive when asked questions regarding his general medical knowledge and practices (to include questions concerning the pathophysiology, pharmacology and general management of hypertension, diabetes and arteriosclerotic vascular disease), and ultimately declined to answer such questions on the day he appeared before the Committee. See S-1 at 55,2 - 57,6; 69,15 - 71,6. Dr. Mirda's refusal to answer questions posed by Committee members constitutes a violation of the Duty to Cooperate regulation, N.J.A.C. 13:45C-1.3, and is conduct which necessarily stymied the ability of the Board to make an assessment of his current qualifications and ability to safely and appropriately practice medicine.'

³ We note that the Board's Executive Director has certified that Dr. Mirda's "last notification to the Board that [he] had the mandatory malpractice insurance coverage was on his biennial renewal application for the renewal cycle of 1997 through 1999." Given that Dr. Mirda has testified that he has not held such coverage since 1996, this Committee questions what representations were made by Dr. Mirda on his 1997 renewal application, and suggests that such issues may be appropriate for further exploration or development during further proceedings in this matter.

⁴ We do note, however, that Dr. Mirda stated that he would "come in and discuss" the questions posed about his general medical knowledge at another time, but declined to do so when appearing on January 7, 2004

We, reject respondent's claims that he was unaware that his licenses and registrations had expired, or any suggestion that he was unaware that he needed to hold malpractice insurance. Indeed, respondent's suggestion that he was unaware of the need to ensure that his medical license and CDS/DEA registrations were current is belied by the fact that this is the second prolonged occasion where he has allowed his medical license to lapse. The evidence thus reveals that Dr. Mirda previously allowed his license to lapse and continued to practice for the six year period between 1989 and 1995, See S-2, ¶4. Having once before engaged in unlicensed practice of medicine, Dr. Mirda should have been acutely aware of the need to avoid again engaging in unlicensed practice and should have made certain that his license was renewed and valid, We find his failure to do so, and to again allow the license to lapse for an extended period of years, to be inexcusable, and his claims that he was unaware that his licenses and registrations had expired to be facially unbelievable.⁵

We also reject any suggestion that respondent's practice without mandatory licensure, registration and insurance is

stating that "today is not the day to do that," See S-1, 70,25 - 71,6.

³ Dr. Mirda's claims are similarly belied by the evidence which suggests that he twice allowed his registration with the federal Drug Enforcement Agency to lapse. See S-3, Certification of Tonia Knoll, 94 (stating that Dr. Mirda's registration with the DEA was retired on two occasions; once in August 1990 after a delinquency notice was airt to Dr. Mirda in April 1990, and a second time in August 1996 after a notice of delinquency was sent in April 1996).

innocuous. Rather, we point out that licensure and registration requirements, as well as the mandata that physicians carry medical malpractice liability insurance, are basic and necessary safeguards that exist to protect the public health, eafoty and welfare. Indeed, the Legislature has not only provided that practice with an expired license is the unlicensed practice of medicine, but also has criminalized such practice. See N.J.S.A. 2C:21-20. There is no question that Dr. Mirda's failure to maintain licensure, CDS/DEA registrations and malpractice insurance jeopardized any patients he treated. Similarly, his refusal to answer questions posed by members of the Board that sought to elicit information regarding his general medical knowledge, which questions are necessarily relevant to any determinations this Board might make regarding Dr. Mirda's current fitness and ability to practice medicine, is conduct which poses a significant risk to the public health, safety and welfare.

We conclude that the constellation of findings we have made forms a more than sufficient predicate to support a conclusion that respondent's continued practice of medicine at this time would present a clear and imminent danger to the public health, safety and welfare. Basad thereon, we order that respondent's license to practice medicine be immediately temporarily suspended, pending the completion of plenary proceedings in this matter. We will, however, provide that Dr. Mirda may make an application to the

Board to vacate the temporary suspension ordered herein, provided that he first takes all steps necessary to secure necessary licenses, registrations and malpractice insurance, and provided further that he fully cooperates with this Board by again appearing before an investigative committee of the Board and then answering any and all questions that may be posed to him, to include questions regarding his general medical knowledge. At such time, we will reconsider whether Dr. Mirda's continued practice of medicine, pending the completion of proceedings on the filed complaint in this matter, continues to present a clear and imminent danger sufficient to warrant continuation of the Order of temporary suspension.

WHEREFORE, it is on this 23rd day of January, 2004

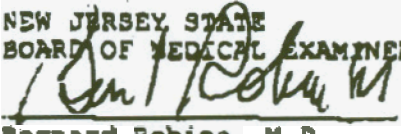
ORDERED, effective on the 21st day of January, 2004,

1. The license of respondent George M. Mirda, M.D., to practice medicine and surgery in the State of New Jersey is hereby temporarily suspended, until the completion of plenary proceedings in this matter or further Order of this Board. Respondent shall comply with all directives set forth on the attached "Directives Applicable to any Medical Board Licensee who is Disciplined or whose Surrender of Licensure has been Accepted."

2. Respondent may move before the Board to vacate the temporary suspension of his license ordered in paragraph 1 above, at such time as he can demonstrate that he has:

- a. Completed and filed applications to renew his New Jersey medical license; and
- b. Completed and filed applications to secure state CDS registration and federal DEA registration; and
- c. Secured a commitment from a medical malpractice insurance provider to issue medical malpractice liability insurance at such time as he may obtain a medical license, or, in the event he is unable to secure such a commitment, filed a letter of credit with the Board, in the sum of at least \$500,000, as required pursuant to N.J.A.C. 13:35-6.19; and
- d. Appeared before a Committee of the Board and fully cooperated with the Board by answering any and all questions that may be posed to him by members of said Committee, to include any questions that may be posed regarding his general knowledge of medicine and medical practice.

By:

NEW JERSEY STATE
BOARD OF MEDICAL EXAMINERS

Bernard Robins, M.D.
Hearing Committee Chairman

ADDENDUM

Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:

Social Security Number: _____

List the Name and Address of any and all Health Care Facilities with which you are affiliated:

List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).

¹ Pursuant to 45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in order to discharge its responsibility to report adverse actions to the National Practitioner Data Bank and the HIP Data Bank.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and **take** affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also **take steps to remove his/her** name from professional listings, telephone directories, professional **stationery**, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. **Prescription pads bearing the licensee's name** shall be destroyed. A destruction report **form** obtained from the Office of Drug Control (973-504-6558) must be filed. If **no** other **licensee** is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or **safeguarded**. (In situations where a license has been **suspended** for less than one year, prescription pads and medications **need not be destroyed but must be secured in a** locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in **any** fee for professional **services** rendered by him/herself or **others** while barred from engaging in the **professional** practice. The licensee **may be** compensated for the reasonable **value** of **services** lawfully rendered and disbursements incurred on a patient's **behalf** prior to the effective date of the **Board** action.

A licensee who is a shareholder in a professional **senrice** corporation organized to **engage** in the professional practice, **whose** license is revoked, surrendered or suspended for a term of **one (1) year or more shall be deemed** to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional **senrice** corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a **member** of a limited liability **company** organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. **Upon** divestiture, a licensee **shall** forward to the Board a **copy** of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the **interest** has been terminated. **If** the licensee is the sole shareholder in a professional **senrice** corporation, the corporation must be dissolved within **90** days of the licensee's disqualification.

4. Medical Records

If, **as** a result of the **Board's** action, a practice **is closed** or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of **the licensee** (or his/her attorney) assuming custody of the records. The same information shall **also** be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of